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AN ORIENTAL MODERNIST

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The modernist is characterized by two things: First, he is a churchman who desires to retain his connection with his church. Secondly, he has studied modern philosophy and modern historic methods, and desires to adopt as his own the accredited results of such study; where these are in conflict with the doctrines authoritatively enunciated by his church he would have the doctrinal statements modified, or at least would have the church give him liberty to teach what he believes to be true. The term seems to be applied generally to members of the Roman Catholic church, and it is true that the conflict of ideals is most keenly felt in that church, both because the medieval philosophy is there most strenuously held, and because the rigid discipline applied to the clergy of that church forces the individual scholar to search his conscience in the confessional. One thing more may be noted: the Roman Catholic modernist does not seek to identify himself with any Protestant communion, partly because he has been taught from his youth to regard all Protestants as rebels against the true faith, partly because he finds most Protestant churches holding to the same antiquated philosophy which in his own church has given him so much heart-break.

Now if the progress of science has given rise to the modernist movement in the Christian church it is not improbable that the teaching of the same science to men of other faiths will have a similar effect. And it is obvious that the more highly developed theological systems outside the pale of Christianity will most plainly show this effect. This is what is happening. Among the non-Christian religions none is more rigid in its dogmas than the one which we call Muhammadanism, but which its votaries call Islam. As occidental learning is introduced into Muhammadan lands the phenomenon which we call modernism appears. Evidence is a book which has

come into my hands, written by an Indian Moslem named Abdur Rahmān. Its title is *A Critical Examination of the Sources of Islamic Law*,¹ and the author is a barrister at law of Lincoln's Inn, London, and counselor at law of the Supreme Court, Northwest India. It is evident that he is acquainted with Western legal lore both English and German, for, curiously enough, his book, published in London in 1914, is written in the German language. The title of his book, *A Critical Examination of the Sources of Islamic Law*, indicates that he wishes to apply modern methods to the system in which he was indoctrinated in his youth.

How much this means will be evident if we reflect a little on the Muhammadan social system. In that system the distinction which we draw between church and state is unknown. The church is the state, and the state is the church. Instead of a state-church we have in Islam a church-state. The caliphs, successors of Muhammad, hold their office by virtue of being heads of the *religious* community. If the papacy had succeeded in making itself the supreme civil as well as the supreme ecclesiastical power in the Western world we should have had a parallel. The offices of pope and emperor would then have been united in the same person, and (what is important for our present discussion) the law of the church-state would have been the canon law.

Muhammadan law has developed exactly on this line. According to the Moslem authorities all law is based on the Quran. There is in fact no distinction between the lawyer and the theologian, for the lawyer's first duty is to expound the sacred book. It is as though among us courses in exegesis of the Scriptures were made essential in every law school. What Muhammad enjoins in the Quran is civil law as well as canon law, and the Moslem ruler is bound to judge according to that standard. For example, Muhammad ordered that if a man said to his wife, "You are divorced," and then repented of his rash words, the divorce did not take effect. If he said it the second time the same would be true. But if he said it the third time he could not take her back until she had been married to another man and divorced by him. This, being Muhammad's

¹ *Eine kritische Prüfung der Quellen des islamitischen Rechts.* Oxford University Press, 1914.

ordinance, is the unchangeable and eternal civil law in all Muhammadan states.

But since the Quran does not provide for all cases that may arise the lawyer-theologians were compelled to look about for another source, and this they found in the example of the Prophet. While Muhammad was alive he was the umpire of the community in Medina. His followers recognized him as the Apostle of Allah. His decisions had the force of law, even when he did not claim that they were divinely revealed. After his death, when questions arose which were not decided by the Quran, his companions were asked what the Prophet had done in similar cases. Thus there grew up an immense body of tradition, at first handed down orally but later put into writing. That the most of it is unreliable, that is, that it does not actually report what the Prophet said, does not concern us here. In its written form it is regarded by the legal authorities as a second source of law.

But law never ceases to grow, and new questions arose for which neither Quran nor tradition had an answer. A third source was therefore looked for and found in what was called the common sense of the community. In the early days, soon after the death of their leader, the Moslem judges used to ask the advice of the comparatively compact community in which they lived, and were guided by that. On the basis of this common usage—for such it would naturally be—there grew up a supplementary tradition. The consent of the community came to mean in reality the consent of the early Moslem community, and since the class of learned men—in this case theologians and lawyers—easily arrogates to itself all wisdom and authority, the legal consensus came to mean the tradition of the lawyers. Conservatism is notoriously the mark of this caste, more conspicuously in Islam than anywhere else.

Finally Moslem jurists have taken refuge in a fourth source of law. Where the other three are insufficient they allow *analogy* to be brought into play; that is, they search the Quran, the Hadith, and the recorded agreement of the learned for a case similar to the one before them, and argue from the resemblance. This is therefore not an independent source but an extension of the other three beyond the bounds of the letter. On this account it is regarded with suspi-

cion by the more rigidly orthodox, to whom innovation is anathema, as according to tradition it was to Muhammad.

What I have said will enable us to estimate the radical nature of the departure made by the Moslem modernist Abdur Rahmān when he *denies* the binding nature of all four of these sources of law. Not that he gives up his religion, closely woven though it is with the legal system in which he was brought up. He makes this plain at the outset by quoting from the Mufti of Egypt this declaration:

We are ready to learn from Europe and America all that concerns the material side of life. But when it comes to religion we stand and shall continue to stand apart. In religious matters we [the Moslem lawyers and theologians] are the only and exclusive authorities. Islam is our religion; we alone live in it; we alone comprehend it.

To this citation our author adds his profession of faith in the unity of Allah, the divine mission of Muhammad, and the inspiration of the Quran. This book, he says, since it is of divine origin, is perfect and unexcelled and can never be equaled. But exactly at this point his divergence from the orthodox school begins. He admits that the Quran is a book of moral precepts, but *denies* that it is a code of laws. How radical this statement is we can appreciate, bearing in mind what has been said about the social structure of Moslem society, of which the Quran is in fact the very cornerstone.

Abdur Rahmān next considers the body of traditions which, as we have seen, are a second pillar of Moslem law. He properly points out that the six codes which are recognized as canonical were not written down until three hundred years after Muhammad's death. Further, although the editors of these collections attempted to exercise a critical judgment in making their selection from the mass of material at their disposition, their critical principles were not such as we with our historical method can approve. The conclusion is that this Hadith is neither convincing nor applicable to present conditions.

Then comes the *Igma*, the consent of the community, which as we have seen means the consensus of legal opinion. This also is rejected by our modernist; he would indeed allow it if it means the consent of the living community, for that would open the path to real progress. But this is precisely what orthodox Moslem

authorities cannot allow. Innovation is abhorrent to them. The kind of consensus which they uphold is therefore rejected by our author.

Having disposed of these three sources of law the author has little difficulty with the one which remains—the analogy of faith. In fact, this being but an extension of the other three, it falls to the ground of itself when they are discredited. The thing which seems to escape the author's attention, but must be evident to us, is that in clearing the way for legal reform he is undermining the whole social system of Islam. Two examples will be sufficient to make this clear.

The two social institutions against which civilization as we understand it most distinctly revolts are slavery and polygamy. That both were sanctioned by Muhammad, or rather that finding both in existence it never occurred to him to protest against them, is a matter of historical knowledge. Doubtless, being a humane man, he desired to make the lot of the slave tolerable. He recommended that slaves should be well treated, and he recognized the emancipation or the redemption of a slave as a meritorious act; but the very fact that he made this attempt at amelioration shows that he regarded the institution as a part of the social order. And his conduct was in accord with this belief, for when he subdued the Jewish clan of Qainoqa and massacred the men in cold blood he sold the women and children into slavery. Nevertheless our author asserts that slavery is not recognized in the Quran, "which teaches that all men are one family and that all Moslems are brothers." The brotherhood of all who believe in Muhammad is undoubtedly taught in the Quran, but that this relationship extends to those of other religions is nowhere asserted, and in fact is distinctly denied, and the brotherhood of Moslem master and slave is not allowed to interfere with the rights of the master or to change the status of the slave. The Prophet by his example, and in at least one passage by precept, taught that captives in war should be enslaved, and this has been the practice of his followers to the present day. Where slavery has been abolished in Muhammadan communities this has invariably been due to pressure from Christian nations.

In the matter of polygamy the facts are equally clear. In the early Arab communities there seems to have been no limit set to the number of wives that a man might legally possess. Muhammad in this case also attempted to lighten the evils of the existing system by enacting that a man should not have more than *four* wives. There would seem to be no possibility of misunderstanding the language of the Quran: "Take in marriage of such women as please you, two or three or four. But if you fear that you cannot act equably then one, or the slaves which your right hand possesses." Moslem jurists interpret the verse correctly when they say that it authorizes four wives of the first rank and as many concubines as a man can purchase. It seems strange, therefore, that our author can persuade himself that the sacred book recommends monogamy and only intends that a man may marry four wives in succession, not more than one to be his consort at one time. The practice of the Prophet himself is well known. After having given the divinely revealed command which I have just quoted, he published another revelation dispensing himself from obedience to the command and allowing him to take as many wives as he pleased. He had in fact as many as eleven at one time, and gave the correct interpretation of his language about female slaves by taking possession of his maid-servant Miriam, who bore him a son.

The conclusion of the book I am discussing, which shows the author's aim, is as follows:

Now we are free from the fetters of analogy, Igma, and tradition, and have shown that the Moslem law can consist only of the fundamental principles which are formulated in the Great Quran, such principles as are in harmony with the dictates of reason, common sense, and the human mind. On these foundations Moslem jurisprudence must be built up anew, in agreement with the spirit of the times, better adapted to the necessities of the present age.

We must all sympathize with this purpose to reform the antiquated system which prevails in Muhammadan society, but we cannot shut our eyes to the strength of the opposition which the author will meet from his coreligionists when he comes to apply his theories to practical life. Religion is so closely interwoven with all the social institutions of orientals that the endeavor at reform meets with the stoutest

resistance. Our author himself gives us evidence on this point. Evidently he cannot let go of his religion. He eulogizes the Quran—the Great Quran as he calls it—as a book of divine origin, absolutely perfect and unparalleled. Muhammad is the last and greatest of the prophets, and he received his book by direct divine inspiration. Nevertheless even here his rationalism breaks with the views sanctioned by the orthodox. As is well known, the theologians of Islam have adopted the strictest theory of verbal inspiration. According to them the Quran existed from eternity in heaven, being written on a tablet of gold in the very words in which it was revealed to Muhammad. The angel Gabriel from time to time dictated the chapters to the Prophet, and once a year went over the whole with him so as to prevent the possibility of mistake. Our author will have none of this. God does not speak to men in human language, he says. The angels and devils spoken of in the Quran are not intelligent spirits, but only names for the beneficent or harmful forces of nature. The dictation of Gabriel is only an erroneous superstition of some believers who took the traditions too literally; and the belief in the well-guarded tablet on which the autograph of the book of God is written is likewise an irrational superstition.

Irrational this belief may be, but it has been held by all the great theologians who have formulated the religious beliefs of Islam for a thousand years, and it is still taught in the great Muhammadan schools. When we reflect on the influence which men learned in the law—and this means the theologians as I have said—when we reflect on the enormous influence which these men still have in Moslem society we can imagine the storm of opposition which will meet this author and men of like mind, should they really attempt the reform they have in mind.

I have called the author of this book a modernist. In fact he reminds us of the Catholic modernists whose career we have watched with interest in countries nearer to us than India. Like them he wishes to give free course to modern thought, and like them he wishes to retain the religion in which he has been brought up. This is not strange. The Roman Catholic modernist has been from his earliest childhood a pupil of his church. He has looked upon Protestants as rebels against the divinely given authority of that church. He

does not wish to leave the church, though he may wish to reform it. Now the Muhammadan is more closely attached to his Quran and to its author than the Roman Catholic is to the church. From his earliest years he has heard the words of the sacred book. When he went to school it was his textbook. All the warmth with which the oriental clings to his religion is kindled by its language. And on the other hand Christians have always been represented to him as his inferiors. Theoretically he recognizes that they have a divine revelation. But he believes that that earlier revelation has been superseded by the one given to the Arabian prophet, and, besides, that Jews and Christians have wilfully perverted their Bible so as to conceal the predictions which it originally contained, and which pointed to Muhammad as the crown and seal of the prophetic line. When we reflect on this attitude (so ingrained in all Muhammadan thought) about men of another religion we understand why missionaries find Moslems the most difficult of all men to approach with the gospel, and why even the most enlightened among them refuse to accept our religion.

Nevertheless I think we may regard the book before us as a hopeful sign. It shows that Western thought is making inroads on the territory so carefully guarded by Moslem science. Perhaps one of the best results of Christian missions will be found to be such efforts to reform other religions and to introduce the institutions of modern society where hitherto they have been unknown.